SUPREME COURT OF THE UNITED STATES.

Nos. 336, 355, 388, 389, 390, 391 and 471.—OCTOBER TERM, 1925.

Lake Superior Consolidated Iron Mines, Oliver Iron Mining Company, Northern Development Company, et al., Appellants,
336 *vs.*
Samuel Lord, J. G. Armson and Odin Halden, constituting the Minnesota Tax Commission, et al.

George L. Burrows, Jr., Alice B. Beaumont, Elizabeth B. Huntington, et al., etc., Appellants,
355 *vs.*
Samuel Lord, James G. Armson, Odin Halden, etc., et al.

Royal Mineral Association, North Range Iron Company, Myers Brothers Company, et al., Appellants,
388 *vs.*
Samuel Lord, James G. Armson, Odin Halden, etc., et al.

William E. Boeing, Caroline Boeing Poole, Morton D. Hull, et al., etc., Appellants,
389 *vs.*
Samuel Lord, J. G. Armson and Odin Halden, etc., et al.

Robert E. Whiteside, W. J. Conan, Eliza Conan, et al., Appellants,
390 *vs.*
Samuel Lord, James G. Armson and Odin Halden, etc., et al.

Merrimac Mining Company, Appellant,
391 *vs.*
Samuel Lord, James G. Armson and Odin Halden, etc., et al.

Helen P. Bardwell, Harriot P. Ayer and Alice P. Forsman, Appellants,
471 *vs.*
Sargent Land Company, Samuel Lord, James G. Armson, et al.

Appeals from the District Court of the United States for the District of Minnesota.

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[June 7, 1926.]

Mr. Justice MCREYNOLDS delivered the opinion of the Court.

By their several bills in the United States District Court, appellants alleged the invalidity of Chapter 226, Laws of Minnesota,

approved April 11, 1923, because of conflict with the Fourteenth Amendment and the State Constitution. They sought to prevent its enforcement. That court held the enactment valid and, by decrees entered January 15, 1925, dismissed the bills. These appeals followed.

The challenged Act (fourteen sections), effective from its passage, provides—

> Sec. 1. There shall be levied and collected upon all royalty received during the year ending December 31, 1923, and upon all royalty received during each calendar year thereafter, for permission to explore, mine, take out and remove ore from land in this State, a tax of six (6) per cent.
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> Sec. 2. For all purposes of this Act the word "royalty" shall be construed to mean the amount in money or value of property received by any person having any right, title or interest in or to any tract of land in this State for permission to explore, mine, take out and remove ore therefrom; and the word "person" shall be construed to include individuals, co-partnerships, associations, companies and corporations.

Succeeding sections relate to reports to the Tax Commission, method of assessment, penalties, date of payment, etc. Section 5 provides: "A person subletting land for the use of which he received royalty shall be required to pay taxes only on the difference between the amount of royalty paid by him and the amount received." And Section 8: "The situs of royalty for all purposes of this Act shall be in this State; and the tax herein provided for shall be a specific lien from the time the same is due and payable upon all and singular the right, title and interest of the person to whom such royalty is payable, in and to the land for permission to explore, mine, take out and remove ore on which the royalty is paid."

Article IX, Section 1, Constitution of Minnesota: "The power of taxation shall never be surrendered, suspended or contracted away. Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes . . ."

Extensive areas in northeastern Minnesota contain beds of rich iron ore and derive their chief value therefrom. Titles to these lands are held by many resident and nonresident individuals and corporations. For many years these owners have followed the

common practice of making long-term leases (ordinarily fifty years) to parties who agree to mine the ore and pay the lessor, or his successors, at some designated place, a specified amount ($.125 to $1.25), or royalty, for each ton removed. Some lessees have made subleases, reserving to themselves something above what they are obligated to pay.

Great bodies of ore are now subject to such leases, or conveyances of similar import, and every year millions of tons are mined thereunder, most of which goes out of the State. The consequent royalties are very large—sixteen million dollars during 1923.

In 1921 the Minnesota Legislature adopted the Occupation Tax Act—Chapter 223. It prescribes a charge upon those who engage in mining, amounting to six per centum of the value of the ore extracted and removed, after deducting costs of operation and royalties. *Oliver Iron Mining Co. et al.* v. *Lord*, 262 U. S. 172, sustained this Act. The Legislature evidently intended that Chapter 226, Laws of 1923, should supplement Chapter 223, Laws of 1921, and thus secure payment to the State of six per centum upon the value of all extracted ores, less the expense of raising them. If the owner operates, he must pay this six per centum, under the Occupation Tax Act; if a lessee mines, the Act requires him to pay the same amount, less royalty. The Act of 1923 lays a charge of six per centum upon the royalty. See *State* v. *Armson*, 207 N. W. 727, 731.

Appellants—corporate and individual—receive royalties from iron mines, under lease or similar contracts, at designated places, sometimes within and sometimes without the State. Some of them reside within the State, and some without. Some own the fee; some are lessees who have executed subleases. They maintain that the tax prescribed by Chapter 226 of 1923 is not laid uniformly upon the same class of subjects, as required by the State Constitution; that its enforcement would deprive them of the equal protection of the laws and of property without due process of law, contrary to the Fourteenth Amendment; and that it impairs the obligation of their contracts and thereby violates Article I, Section 10, federal Constitution.

Titles to all the lands and leases were obtained subject to the State's power to tax. If the statute now in controversy is within that power, it cannot impair the obligation of appellants' contracts;

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if beyond, it is, of course, invalid. Accordingly, there is no occasion further to discuss the application of Article I, Section 10.

The only provision of the Minnesota Constitution which undertakes to limit the power of taxation, is in Article IX, Section 1. "Taxes shall be uniform upon the same class of subjects, and shall be levied and collected for public purposes." The State courts have said nothing to the contrary, and it seems to us sufficiently plain that this provision goes no further than the Fourteenth Amendment. Consequently, if the legislation under review does not offend that Amendment there is no conflict with the State Constitution.

In *Von Baumbach* v. *Sargent Lond Co.*, 242 U. S. 503, we considered mining leases like those now before us and pointed out that under the Minnesota decisions their avails are regarded as rents and profits of the land, "the compensation which the occupier pays the landlord for the species of occupation which the contract between them allows." Ultimate construction of Chapter 226 is for the State courts, but, in the absence of that, we think the enactment may be reasonably interpreted as laying a tax upon interests in mineral lands from which permission has been given to extract ores upon payment of royalty. The amount of the exaction is determined by reference to the sum actually received for the use of such interests.

As the tax is laid upon land, neither the owner's residence nor the place fixed for payment of the royalty is important.

The remaining question is whether the Legislature may treat ore lands as a distinct class of property and impose upon them a tax not extended to quarries, forests, etc., without depriving their owners of the equal protection of the laws guaranteed by the Fourteenth Amendment. And this question must be answered in the affirmative, under the principles announced in *Heisler* v. *Thomas Colliery Co.*, 260 U. S. 245, where we sustained a tax confined to anthracite coal against the objection of arbitrary classification in that bituminous coal was not included. The State Legislature may exercise wide discretion in selecting the subjects of taxation (*Oliver Iron Mining Co.* v. *Lord*, 262 U. S. 172, 179) so long as it refrains from clear and hostile discrimination against particular persons or classes. *Bell's Gap Railroad Co.* v. *Pennsylvania*, 134 U. S. 232, 237. Certainly, ores differ as much

from other products of the land as anthracite coal does from the bituminous variety, and ore gives character to appellants' holdings. Lands chiefly valuable for ore are depreciated by its extraction, and probably will yield less and less under an *ad valorem* tax as the mining continues. The situation is very different where the principal value depends on other uses which do not deplete. The selection of the business of mining only, for imposition of the occupation tax, was not arbitrary and, certainly, we cannot say that the classification by the legislation now assailed was without any reasonable basis.

There is nothing to show purpose by the State officers to insist upon a construction or application of the statute which will deprive appellants of their constitutional rights; and, considering the true construction of the Act, no ground appears which would justify an injunction to prevent them from proceeding with its orderly enforcement.

Affirmed.

A true copy.

Test

Clerk, Supreme Court, U. S.